

T.F. was found to be a child in need of services (“CHINS”) by the Vanderburgh Superior Court. From the record before us, it appears that the trial court did not issue findings of fact and conclusions of law, and therefore, we remand this case to the trial court for proceedings consistent with this opinion.

Facts and Procedural History

On January 27, 2006, the Vanderburgh County Department of Child Services (“the VCDCS”) filed a petition alleging that one-year old T.F. was a CHINS because 1) T.F. “has a previous fracture to her left clavicle and proximal humerus that was never treated,” and 2) that T.F. “had injuries that were reported to be inconsistent with the explanation of the injury according to Deaconess Emergency Room, therefore placing said child in an environment dangerous to said child’s health, safety, and well-being[.]” Appellee’s App. p. 9. On May 4, 2006, an amended petition was filed adding the following allegation: T.F. “had significant bruising.”¹ Appellant’s App. p. 9.

Hearings were held on the VCDCS’s petition on May 9 and 23, 2006, and on June 7 and 15, 2006. The parties presented the testimony of several doctors and radiologists at the hearings. The radiologists and an emergency room doctor testified that T.F.’s injuries were consistent with physical abuse, but T.F.’s family doctor stated that he did not suspect abuse after observing T.F.’s bruising. Tr. pp. 223, 356, 366-67. On July 12, 2006, the trial court issued the following order, “Court previously having matter under advisement now finds the child to be a child in need of services.” Appellant’s App. p. 8.

¹ Mother filed a motion to strike the amended petition, but her motion was denied.

On August 30, 2006, the trial court held a dispositional hearing,² and Mother filed her notice of appeal on September 25, 2006.

Discussion and Decision

In her brief, Mother asserts that “[n]o specific findings of fact or conclusions of law were given by the court in its ruling.” Br. of Appellant at 6. In response, the VCDCS asserts that neither party requested findings of fact, and therefore, the trial court was not required to issue such findings. Moreover, the VCDCS states that the trial court’s July 12, 2006 order is sufficient. That order simply states, “[c]ourt previously having matter under advisement now finds the child to be a child in need of services.” Appellant’s App. p. 8.

In In re J.Q., 836 N.E.2d 961, 966 (Ind. Ct. App. 2005), our court concluded that “[t]he limited findings of the trial court, on record at least, make it difficult for this court to determine whether or not a mistake has been made in adjudicating J.Q. as a CHINS.” Moreover, our court observed:

Our review of the record in its entirety yields evidence that could support either outcome, but we are in no position to reweigh such evidence. However, we are also not in the position to read the trial court’s mind in regard to its findings of fact. Indiana Code § 31-34-19-10(5) requires that the trial court give reasons for its disposition in a CHINS proceeding. Specifically, we are concerned that procedural irregularities, like an absence of clear findings of fact, in a CHINS proceeding may be of such import that they deprive a parent of procedural due process with respect to a potential subsequent termination of parental rights. Our legislature’s enactment of an interlocking statutory scheme governing CHINS and

² The dispositional decree is the final appealable judgment in CHINS proceedings. See In the Matter of M.R., 452 N.E.2d 1085, 1087-88 (Ind. Ct. App. 1983) (“[D]eterminations of CHINS status are not final, appealable judgments prior to disposition. . . . The finding of CHINS status is a mere preliminary step to be taken prior to choosing among several different dispositional alternatives.”). Mother did not include the dispositional decree in her Brief or Appendix as required by Appellate Rules 46(A)(10) and 50(A)(2)(b).

involuntary termination of parental rights compels this court to make sure that each procedure is conducted in accordance with the law. Both statutes aim to protect the rights of parents in the upbringing of their children, as well as give effect to the State's legitimate interest in protecting children from harm. We conclude that in order to properly balance these two interests, the trial court needs to carefully follow the language and logic laid out by our legislature in these separate statutes.

Id. at 966-67 (citations omitted). See also A.P. v. Porter County Office of Family and Children, 734 N.E.2d 1107, 1115-16 (Ind. Ct. App. 2000), trans. denied

The trial court's dispositional order is not included in the record before us. In light of the parties' arguments, we are left to assume that the trial court did not include the required findings in its dispositional order. Because there was conflicting testimony from medical professionals as to whether T.F.'s bruising and clavicle injury demonstrated that she was physically abused either by a parent or her sibling, it difficult for our court to determine whether or not a mistake has been made in adjudicating T.F. as a CHINS. Accordingly, we remand this case to the trial court with instructions to enter findings of fact concerning its determination that T.F. is a CHINS.

Reversed and remanded for proceedings consistent with this opinion.

DARDEN, J., and KIRSCH, J., concur.